

**5-24-2. Allowable withdrawals.** (a) Except as set forth specified in subsection (b) below, ~~each application for an approval of application and each application for a change in the point of diversion shall be subject to the following requirements: the district shall be closed to any new appropriation of water that partially or wholly requests a source of supply that includes the Ogallala formation.~~

~~(1) The sum of the annual quantities of water of the proposed appropriation, the vested rights, prior appropriation rights, and earlier priority applications with a point of diversion authorized or proposed within the area of consideration that withdraw water from the same source of supply as the proposed point of diversion, as a hydraulically connected source of supply, shall not exceed the calculated quantity of annual recharge received by the aquifer underlying the area of consideration. The quantity authorized on all prior permits, certificates, and vested rights, and the quantity requested on prior applications shall be used to calculate the sum of prior appropriations.~~

~~(2) All limitation clauses listed on permits and certificates shall be considered to be in force.~~

~~(3) In the case of an application for change in the point of diversion, all applications with a priority earlier than the priority established by the filing of the application for change shall be included in the analysis.~~


~~(4) The allowable annual appropriation shall be calculated using the formula  $Q = \frac{AR}{12}$ , in which the following values are used:~~

~~(A) Q is the allowable annual appropriation in acre-feet per year.~~

~~(B) A is the area of consideration.~~

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~~(C) R is the average annual recharge in inches per year.~~

~~(5) The value of .5 inch per year shall be used for recharge, including natural recharge and return flow from irrigation.~~

~~(6) If a portion of the area of consideration is outside the district boundary, the evaluation shall be conducted as though the entire area of consideration were within the district boundary. If the perimeter of the area of consideration intersects a group of wells authorized under prior applications, permits, certificates, or vested rights, a reasonable quantity of water shall be assigned to each well based upon the best available information.~~

(b) The following types of applications shall not be subject to the closure of the district under this regulation:

(1) A nondomestic application for an approval of application if the proposed point of diversion meets the following criteria:

(A) Is to be located in an alluvial aquifer not closed to new appropriations, except for domestic use, temporary permits, and term permits for five or fewer years;

(B) meets the well spacing requirements of K.A.R. 5-24-3; and

(C) meets the safe yield requirements of K.A.R. 5-3-9, K.A.R. 5-3-10, and K.A.R. 5-3-11;

(2) a nondomestic application to appropriate water from ~~one or more of the following sources of supply:~~

~~(A) Niobrara;~~

~~(B) Carlile;~~

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~~(C) Greenhorn;~~

~~(D) Dakota;~~

~~(E) Kiowa; or~~

~~(F) the Cheyenne formations if both of the following conditions are met:~~

~~(i) The well spacing requirements of K.A.R. 5-24-3 are met; and~~

~~(ii) the proposed point of diversion is located in an area where there is a natural~~

~~hydraulic connection between all of the formations from which the applicant proposes to~~

~~divert water the Cretaceous system if the proposed point of diversion meets the well~~

~~spacing criteria of K.A.R. 5-24-3;~~

(3) an application for a permit to appropriate water for domestic use;

(4) an application for a term permit for five years or less;

(5) an application for a temporary permit;

~~(6) an application for change in point of diversion if either of the following~~

~~conditions is met:~~

~~(A) The authorized well has been drilled, cased, and test pumped; or~~

~~(B) the authorized diversion works have been completed and a notice of~~

~~completion was timely filed with the chief engineer under the current water right or~~

~~approval of application;~~

(7) an application for an approval of application filed on an existing well currently authorized by a vested right, appropriation right, or approval of application that requests a quantity of water equal to or less than the currently available quantity of water that will

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be conjunctively reduced from a well authorized by either a vested right or certified appropriation right meeting either of the criteria specified in paragraph (c)(1);

~~(8)~~ (7) an application for an approval of application that meets the criteria of K.A.R. 5-24-10; and

~~(9)~~ (8) an application for an additional rate of diversion only that meets the requirements of K.A.R. 5-4-5.

(c)(1) To be exempt from this regulation, each application for an approval of application filed on an existing well currently authorized by a vested right, appropriation right, or approval of application that requests a quantity of water equal to or less than the currently available quantity of water that will be conjunctively reduced from a well authorized by either a vested right or certified appropriation right shall meet either of the following criteria:

(A) Be located within 2,640 feet of the existing well that will have its authorized quantity reduced; or

(B) be located within a distance from the currently authorized well for which a Theis analysis shows a .5 foot or greater drawdown, using the following assumptions:

- (i) The certified rate of diversion of the currently authorized well;
- (ii) the certified annual quantity of water for the currently authorized well;
- (iii) the pumping time equal to the time it takes to pump the certified annual quantity at the certified rate of diversion;
- (iv) the drawdown computed at the time equal to the pumping time; and

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(v) the transmissivity and storage coefficient derived either from a time drawdown aquifer pump test of the currently authorized well or from use of the well log from the currently authorized well or a well log from a test hole or well located within 300 feet of the currently authorized well, using the procedure table on page 26 and the calculation described in pages 26-27 the second paragraph on page 27 of the United States geological survey's water-resources investigations report 85-4198, published in 1985. The pages portions of this document specified in this paragraph are hereby adopted by reference.

(2)(A) For water rights authorized for irrigation use, the currently available quantity of water shall be calculated as follows:

(i) Determine the maximum number of acres actually irrigated during the perfection period. For vested rights, use the maximum number of acres irrigated in any one calendar year before June 29, 1945; and

(ii) use the 80 percent chance rainfall net irrigation requirements (NIR) for corn as set forth specified in K.A.R. 5-5-12 to determine the NIR for each acre, and then divide that value by .85 to adjust for efficiency.

(B) For non-irrigation water rights, the currently available quantity of water shall not exceed the actual consumptive use during the perfection period.

(3) Each well that has a reduced or new water right pursuant to this subsection shall be equipped with a water flowmeter meeting the requirements of article one of the chief engineer's regulations.

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(4) The maximum distance that a well shall be relocated under paragraph (c)(1)(B) shall be the distance computed as described in paragraph (c)(1)(B), or 3,960 feet, whichever is less.

(5) The historic consumptive use of a well meeting the requirements of paragraph ~~(b)(7)~~ (b)(6) that is accounted for in the Republican river compact, K.S.A. 82a-518 and amendments thereto, accounting as a stream depletion reaching the Republican river downstream of Trenton dam shall not be transferred to a well that would cause a depletion reaching the Republican river upstream of Trenton dam.

(6) The total net acreage authorized by the following shall not exceed the current net total authorized acreage for both wells:

- ~~(i)~~ (A) The approval of application;
- ~~(ii)~~ (B) the water right being reduced; and
- ~~(iii)~~ (C) the water right currently authorizing the well for which the new water right is sought. (Authorized by and implementing K.S.A. 82a-706a and K.S.A. 2002 2015 Supp. 82a-1028; ~~implementing K.S.A. 82a-706a and K.S.A. 2002 Supp. 82a-1028;~~ effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Aug. 19, 1991; amended Jan. 30, 2004; amended P-\_\_\_\_\_.)

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